

**MINUTES
of the
SIXTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT COMMITTEE**

**December 4, 2013
Room 322, State Capitol
Santa Fe**

D The sixth meeting of the Economic and Rural Development Committee (ERDC) for the 2013 interim was called to order by Senator Howie C. Morales, chair, on Wednesday, December 4, 2013, at 9:42 a.m. in Room 322 of the State Capitol in Santa Fe.

Present

Sen. Howie C. Morales, Chair
Rep. Ernest H. Chavez
Rep. George Dodge, Jr.
Rep. Nora Espinoza
Rep. Mary Helen Garcia
Sen. Ron Griggs
Rep. Dianne Miller Hamilton
Sen. Richard C. Martinez
Sen. Michael Padilla
Sen. Pat Woods

Absent

Rep. Debbie A. Rodella, Vice Chair
Sen. Jacob R. Candelaria
Sen. Phil A. Griego
Rep. Yvette Herrell

Advisory Members

A
Sen. Lee S. Cotter
Rep. Sandra D. Jeff
Rep. Georgene Louis
Sen. Mary Kay Papen
Rep. Patricia Roybal Caballero
Rep. Nick L. Salazar
Rep. Monica Youngblood

F
Sen. Craig W. Brandt
Rep. Zachary J. Cook
Sen. Timothy M. Keller
Sen. Carroll H. Leavell
Rep. Patricia A. Lundstrom
Rep. James Roger Madalena
Sen. Mark Moores
Sen. John Pinto
Rep. William "Bill" R. Rehm
Rep. James E. Smith
Rep. Thomas C. Taylor

Guest Legislator

T
Rep. Eliseo Lee Alcon

Staff

Monica Ewing, Staff Attorney, Legislative Council Service (LCS)
Tessa Ryan, Staff Attorney, LCS
Branden Ibarra, Intern, LCS

Guests

The guest list is in the meeting file.

Handouts

D Copies of all handouts are in the meeting file.

Wednesday, December 4**Welcome and Introductions**

Senator Morales welcomed the committee and members of the audience to the meeting and asked committee members and staff to introduce themselves.

Liquor Licensing Laws and Economic Development in Rural New Mexico

R John Mulcahy, president and chief executive officer, Roswell-Chaves County Economic Development Corporation, made a presentation to the committee on liquor licensing laws and their effect on rural communities. Representatives from several New Mexico counties accompanied Mr. Mulcahy and expressed opinions on liquor licensing laws.

Mr. Mulcahy informed the committee that there are a limited number of liquor licenses available in the state and that liquor license laws unfairly constrain rural business owners because the majority of the licenses are owned by major corporations, most of the licenses are concentrated in the state's metropolitan areas and the expense of obtaining a liquor license unfairly punishes smaller businesses. Mr. Mulcahy informed the committee that many rural businesses go out of business because of competition with other, larger establishments that are able to sell more liquor at a cheaper price. He suggested liquor license law reform to accomplish three goals:

- maintain the equity value of licenses;
- attract new businesses to rural areas; and
- maintain state rules and regulations.

He also proposed that new legislation separate combined liquor licenses and that new licenses should be issued to all current licensees. The newly issued licenses would be non-transferrable so that the state would retain ownership of the license.

Mike Espiritu, president of the Alamogordo Chamber of Commerce, stated that the current price of obtaining a liquor license is very high. He recommended that the state increase the number of available liquor licenses and lower the cost to obtain a liquor license. He stated that an increased number of licenses would create more competition, which is good for business.

Finally, Mr. Espiritu stated that he does not believe that more liquor licenses will contribute to an increase in driving while intoxicated (DWI) offenses.

Eileen Yarborough, executive director of the Cibola Communities Economic Development Foundation, acknowledged that money is an issue in the liquor license reform debate. Ms. Yarborough stated that increasing the number of available liquor licenses in New Mexico might be good economic development policy. However, the fees to obtain a liquor license have steadily increased, which have deterred smaller businesses from obtaining licenses. She stated that it is difficult for small businesses to compete with large corporations that acquire full-service liquor licenses. Ms. Yarborough told committee members that current liquor license laws are an impediment to rural community development in the state.

Myra Pancrazio, representing Torrance, Santa Fe and Bernalillo counties, suggested license reform that would include increasing the number of available liquor licenses. She stated that an increased number of licenses would lead to increased economic development in New Mexico. She added that the state's DWI laws and regulations might also have to be reformed.

Committee members asked questions about and discussed the following issues, and Jennifer Anderson, director of the Alcohol and Gaming Division of the Regulation and Licensing Department, joined in the discussion:

- previous legislative attempts at liquor licensing reform;
- the economic and social costs of reallocating, decreasing or increasing the number of liquor licenses in New Mexico;
- representation of rural communities at meetings discussing transferring out-of-county liquor licenses;
- competition among local and national businesses when national chains acquire liquor licenses;
- the liability of businesses for intoxicated customers;
- balancing the promotion of economic development by increasing liquor licenses with alcohol-related crimes;
- liquor licensing in Indian country;
- alcohol-related illnesses and crimes;
- opportunities for counties to regain licenses that have been transferred out of county;
- satellite liquor licenses;
- groups opposed to increasing the number of available liquor licenses in New Mexico; and
- the risks associated with responsible consumers versus non-responsible consumers.

New Mexico Film Office Update

Nick Maniatis, director of the New Mexico Film Office, updated the committee on film developments in New Mexico. Mr. Maniatis discussed:

- the film production tax credit;
- films shot in New Mexico; and

- television productions in New Mexico, including a filmography of New Mexico beginning in 1987.

Members of the committee asked questions about and discussed:

- recruiting more films to be shot in New Mexico;
- refunds, rebates and payments for films already shot in New Mexico; and
- landowners' rights to films shot in New Mexico.

Senate Memorial 40 (2013) Task Force on Real Estate Contracts Report

Craig Acorn, of counsel for the Colonias Development Council, reported to the committee on behalf of the task force called for in Senate Memorial 40 (SM 40) (2013). Mr. Acorn informed the committee that SM 40 was intended to encourage all parties to real estate contracts to work together to prevent unethical and unfair sales and to curb the proliferation of residential development that lacks critical infrastructure. It was the duty of the task force to study how to provide consumer protections for low-income purchasers of residential real estate through installment contracts.

Mr. Acorn presented recommendations from the task force, including a proposed bill that would afford protection to New Mexicans buying and selling residential property using real estate contracts. Recommendations addressed four key areas.

- **Contract structure:** Real estate contracts should include a full disclosure of terms, descriptions and conditions; rights and responsibilities of all parties and remedies for when any party fails to fulfill contract obligations; mandatory use of escrow services to minimize the risk to all parties; exemptions and exceptions; and equity protection.
- **Recording transactions:** Real estate contracts should be subject to mandatory recording in most cases, which could better enable counties to regulate land use and facilitate infrastructure development and better ensure unclouded titles.
- **Enforcement and remedy:** Real estate contracts should be considered extensions of credit and, therefore, subject to consumer protection provisions enforceable by the Attorney General's Office.
- **Education:** Significant steps should be taken to educate all parties involved in buying and selling real property intended for residential use. Education efforts should come from a variety of sources, including the public, private and not-for-profit sectors.

Mr. Acorn concluded his presentation by stating that task force members recognize that unregulated real estate contracts can harm low-income New Mexicans who are not educated about real property transactions and also can have larger negative implications for New Mexico's development. Finally, Mr. Acorn stated that the task force studied unregulated real estate contracts from all sides in an effort to ensure that such contracts remain a viable option for real property buyers and sellers while minimizing the negative consequences that have been historically observed.

Ric Thom, a representative of Security Escrow Corporation and member of the task force, and Ashley Strauss-Martin, counsel for the Realtors Association of New Mexico, participated in the committee's discussions about the task force's work and its progress.

Committee members asked questions about and discussed:

- the Pajarito Mesa;
- the Colonia of Chaparral;
- the New Mexico Subdivision Act;
- mortgage lending legislation that should address the difficulties of the process;
- the complications of determining original ownership of land and multiple ownership, including accountability and responsibility for activity or inactivity on the land;
- the pros and cons of zoning permits;
- the difficulties of instituting new regulations for professionals and buyers;
- protection of real estate contracts as a tool;
- the concept of real estate contracts as a safety net;
- the need to re-examine real estate contracts from the perspective of unincorporated areas and colonias;
- the level of accessibility of information about real estate contracts;
- the task force's recommendation for mandatory use of escrow services;
- the importance of consumer protections;
- advocacy groups for low-income buyers;
- access to court proceedings for low-income buyers;
- burdens on the real estate industry;
- the importance of real estate contract education;
- the state of colonias in New Mexico;
- enforcement of real estate contracts; and
- remedies for contract violations.

Committee-Endorsed Legislation Discussion

The ERDC considered several draft bills for endorsement.

202.195130.2

This bill provides an appropriation of \$207,000 for the operation and maintenance of a regional adult daycare center in the Pueblo of Santa Clara. Several proponents of the bill and representatives of the Pueblo of Santa Clara spoke in support of the bill and stressed the importance of the services provided by the daycare center. The committee endorsed the bill by majority vote and agreed that Representative Rodella would sponsor the bill.

202.195062.1

This bill provides an appropriation of \$350,000 to the Local Government Division of the Department of Finance and Administration to support a project to accelerate the growth of the state's food entrepreneurs by working with rural communities to develop food assets and create a

cohesive statewide food infrastructure. The committee endorsed the bill by vote and agreed that Representative Chavez would sponsor the bill.

202.195171.1

This bill provides an appropriation of \$250,000 to the Higher Education Department to provide assistance to dental students participating in the Western Interstate Commission for Higher Education program. The committee voted to endorse the bill with an amendment that changed the amount of the appropriation from \$250,000 to \$400,000. The committee agreed that Senator Padilla would sponsor the bill.

202.195104.3

This bill creates an interim legislative nonprofit organizations work group and provides an appropriation of \$150,000 to the LCS for the operation of the work group. After a short discussion, the ERDC chose not to endorse the bill.

Adjournment

There being no further business before the committee, the sixth meeting of the ERDC for the 2013 interim adjourned at 1:30 p.m.